



#21
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Our Ref: 1038-729 MIS:lr

In re patent application

No. 08/931,721

Applicant: Barbara Papadopoulos et al

Title: MACROPHAGE-INFECTING PARASITES
EXPRESSING A GRANULOCYTE
MACROPHAGE COLONY STIMULATING FACTOR

Filed: September 16, 1997

Group No. 1647

Examiner: R. Haynes

November 6, 2002

RENEWED PETITION UNDER 37 CFR 1.137(b)

BY COURIER

The Commissioner of Patents
and Trademarks,
BOX AF,
Washington, D.C. 20231,
U.S.A.

Dear Sir:

Applicant's Petition under 37 CFR 1.137(b) filed September 28, 2000 was dismissed by the Decision on Petition dated September 17, 2002. Reconsideration is requested having regard to the content of this letter.

It is noted that the heading to the Decision refers to this application as Application No. 08/931,721 and the applicant as Shalom Ohayon. The Application number is correct, but the first applicant is Barbara Papadopoulos.

According to Examiner's communication dated September 10, 2002, the application was deemed to have become abandoned for an alleged failure to timely respond to the Office Letter mailed July 19, 2000. The latter document was a Advisory Action advising entry of an Amendment After Final

RECEIVED

NOV 15 2002

OFFICE OF PETITIONS

Action overcoming the objection to Claim 10 and attaching a Notice of Non-Compliance with 37 CFR 1.192(c) with respect to Applicant's Appeal Brief.

On September 28, 2000, Applicants submitted a Petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application and submitting the reply required to comply with 37 CFR 1.192(c), namely an Amended Appeal Brief and a Response to Notification of Non-compliance under 37 CFR 1.192(c).

The Notice of Abandonment dated September 10, 2002 indicated that Applicants proposed reply received on September 28, 2000 does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection. However, the proposed reply was not a response to a final rejection but to the specific requirements of the Notification of the Non-compliance with 37 CFR 1.192(c) with respect to the Appeal Brief and dealt with the specific matters raised in that notice. The Applicants had already filed a reply to the final rejection, namely on Notice of Appeal and an Appeal Brief. The Applicants reply, therefore, was a proper reply to the outstanding requirement.

It is incorrect to state in the Decision dated September 17, 2002 that:

"...the required reply, which may be met by the filing of a notice of appeal and the requisite fee..."

since these acts have already been effected. Since applicants have provided the required reply to the outstanding requirement, namely an Amended Appeal Brief, it is submitted that Applicants Petition does not lack item (1) as stated in the Decision on Petition.

It is stated that the Petition should be allowed and the application returned to pending status.

Respectfully submitted,



M.I. Stewart
Reg. No. 24,973

Toronto, Ontario, Canada,
(416) 595-1155
FAX No. (416) 595-1163